



## **ADA Policy Guide Series #4**

### **Definition of Disabilities under the Americans with Disability Act (ADA)**

Title I of the Americans with Disabilities Act (ADA) protects employees and qualified job candidates with disabilities from discrimination and requires reasonable accommodation to assist in the performance of essential job duties or to enjoy the privileges and benefits provided by the employer. Qualified job candidates must satisfy the skill, experience, education, and other job-related requirements of the position sought or held and must be able to perform the essential job functions of the position, with or without reasonable accommodation.

#### **What is a Disability?**

The ADA defines a disability as:

- (1) A person who has a physical or mental impairment that substantially limits one or more major life activities,
- (2) A person with a record of a physical or mental impairment that substantially limits one or more major life activities, and
- (3) A person who is regarded as having a physical or mental impairment that substantially limits one or more major life activities.

Criterion #1 is instrumental in providing employees or qualified job candidates with reasonable accommodation for the performance of essential job duties or for enjoying the privileges and benefits provided by the employer. Criteria #2 and #3 establish that employees shall be protected from discrimination due to a disability.

#### **What are Major Life Activities?**

Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive systems.

#### **What Qualifies as a Substantially Limiting Impairment?**

An impairment need not prevent, or significantly or severely restrict an individual from performing a major life activity to be considered substantially limiting. Impairments may be mitigated using equipment, medication or other solutions but may continue to require reasonable accommodation. However, not every impairment will constitute a disability under the ADA.

Temporary medical conditions may also be considered as substantially limiting and eligible for reasonable accommodations to include pregnancy, broken limbs, severe seasonal or environmental allergies, joint replacements, etc. Agencies are encouraged to focus on what can be done to enable

the employee to perform the essential functions of the job based on legitimate, non-discriminatory, and non-retaliatory reasons.

### **“Record of or Regarded as” Having a Disability**

Even if the employees and applicants do not have a physical or mental impairment that substantially limits a major life activity, they are protected by the ADA particularly if employment actions (such as hiring, transferring or assignment of work) are based upon a perceived disability or a record of a disability. In both instances, the perceived disability must qualify as an impairment under the ADA. The impairment cannot be transitory and minor, meaning it lasts for six months or less (such as the flu, broken bones that heal within a few months, recovery from injuries/illnesses that heal within a week or two.)

#### **“Record Of” Having a Disability**

Employees may have previously advised their supervisor or Agency Human Resources of chronic and serious medical conditions. This communication establishes a record of the employee having a disability.

#### **“Regarded As” Having a Disability**

The “regarded as” provision in Title I of the ADA applies if an employer perceives or assumes that an individual has a physical or mental impairment that substantially limits a major life activity and applies this perception to employment decisions.

#### **Examples:**

*An employee previously suffered a heart attack and had open-heart surgery. She is fully recovered and takes medications to mitigate her condition. The employee is a top candidate for a promotion but is not selected because the hiring manager is concerned that the stress associated with the new position will result in another heart attack. This employee is “regarded as” being disabled and may allege discrimination in the hiring manager’s decision not to select her for the promotion.*

*An employee suffered from severe depression and anxiety following the death of his small child several years ago. The employee was transparent in sharing information about his mental health condition with his supervisor. The employee received stellar performance evaluations and several recognition awards. He was not selected to serve on a highly visible public-facing project coordinated by the agency. His supervisor advised that the project’s responsibilities may prove to be too burdensome and stressful for his mental health because the public’s interaction style can be confrontational and negative at times. This supervisor relied upon the employee’s record of a disability to make an employment decision impacting the employee.*